IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	Confirm. No.: 8708
WOLLBRAND et al	Atty. Ref.: 2380-317
Serial No. 09/870,945	TC/A.U.: 2664
Filed: June 1, 2001	Examiner: Lee, A.C.C.

For: BANDWIDTH EFFICIENT QUALITY OF SERVICE SEPARATION OF AAL2 TRAFFIC

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June 7, 2006

MAIL STOP AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

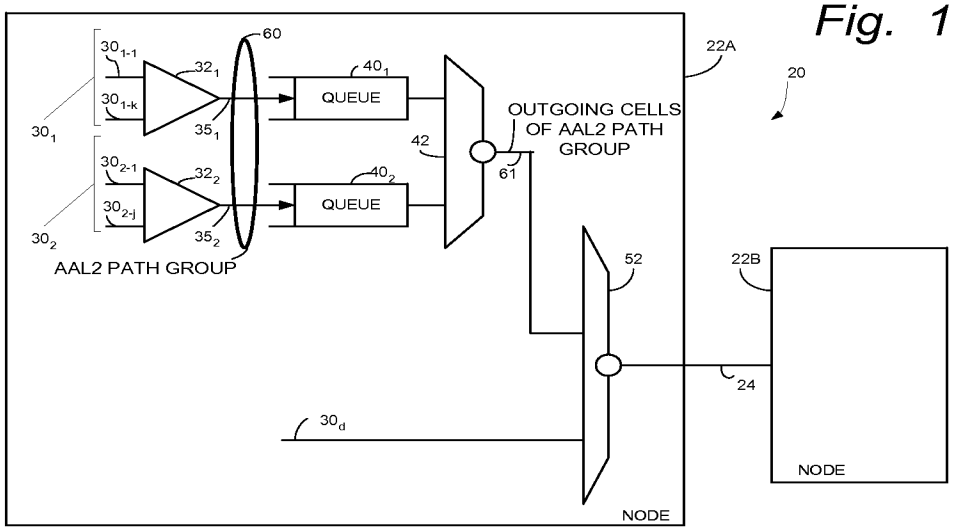
PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s).

REASON(S) FOR REVIEW

Each of Applicants' independent claims 1, 11, 24, and 41 refer explicitly to *AAL2* path groups which comprise (or are formed by) plural *AAL2* paths. Applicants' Fig. 1 shows AAL2 path group 60 which comprises AAL2 paths 35_1 and 35_2, each AAL2 path 35 being formed by plural AAL2 connections 30. Further, each independent claim stipulates that connections are admitted based on available bandwidth of the AAL2 path group, rather than available bandwidth of an individual AAL2 path. Further, all independent claims require that connections of the AAL2 path group are carried on a *same* virtual path (VP). Applicants' same virtual path (VP) is illustrated as path 24 in Fig. 1.

Fig. 1



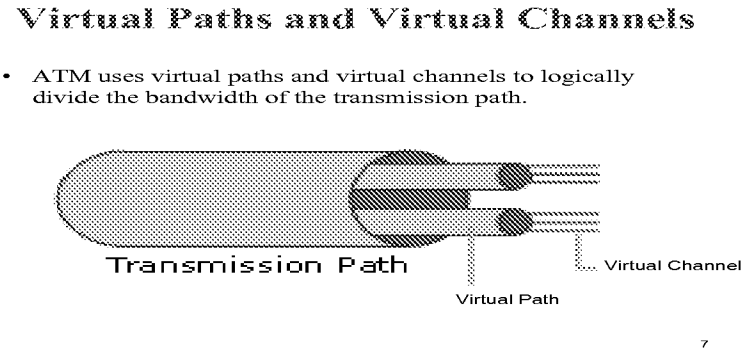
The final office action has properly admitted that U.S. Patent 6,834,053 to Stacey et al. fails to disclose numerous claim limitations, including some of those paraphrased in the preceding paragraph. The Final Office Action alleges that U.S. Patent 6,314,103 to Medhat et al. teaches the claim limitations for which Stacey is silent, and that Medhat is combinable with Stacey. Applicants vigorously disagree.

U.S. Patent 6,314,103 to Medhat et al. teaches a virtual path group, *not* an AAL2 path group. Medhat explains the terminology as follows:

REASON(S) FOR REVIEW

> A VC is a logical connection between two end points for the transfer of ATM cells. A VP is a logical combination of VCs. VPs can be bundled into groups referred to herein as virtual path groups (VPGs). See, col. 6, line 66 – col. 7, line 2 of Medhat.

Medhat thus employs the terminology "VP" in conventional fashion, illustrated by the following drawing



Please note that Medhat is forming virtual path groups using plural virtual paths, e.g., the two virtual paths in the above drawing could be considered a virtual path group if otherwise compliant with Medhat's teaching.

Applicants schedule an AAL2 path group, comprising plural AAL2 paths, on a *same* virtual path (VP), based on the available bandwidth of the AAL2 path group rather than available bandwidth of an individual AAL2 path. Applicants' independent claims refer to what is carried on an individual virtual path, not a group of virtual paths. In the drawing above, Applicants are concerned only with one virtual path (VP), and the admission of AAL2 connections on an AAL2 path group carried by the sole VP.

By contrast, Medhat

> allocates and tracks bandwidth for VPs within VPGs between ATM system devices. The system of the present invention under-allocates the VPs in a particular VPG so that when a particular VP requires more bandwidth, the

particular VP may use bandwidth from another VP. See, col. 7, lines 8 - 13 of Medhat.

Thus, Medhat is bundling VPs in to a group, i.e., a virtual path group VPG. As explained more fully in col. 7, lines 66 – col. 8, line 8, in Medhat

> each VP within a VPG is set at a certain amount of bandwidth, and system policing is turned off. By turning off policing, a VP may borrow bandwidth from another VP when needed and thereby accomplish dynamic reallocation of bandwidth. Thus, for example, the VPs in a VPG may be assigned a VP under-allocation value equivalent to 10 VCs in a critically allocated state. Because policing is turned off, when a VP uses all 10 of the VCs to which it is allocated, it may use a VC from another VP if available.

See also the example in col. 12, lines 53 - 61 wherein it is stated that

> When the level of bandwidth use for a VP within the VPG connection 124 reaches the level of under-allocation, bandwidth is pulled from other provisioned VPG connections, such as the VCs in the provisioned path from the second ATM device 134 to the first ATM device 128 through the VPG connections 126 and 132, to connect the calls. This bandwidth is used by the VPs in the VPG connection 124 which have been provisioned to the first ATM device 128.

Thus, Medhat refers to virtual path group, *not* a **AAL2 path group** which is carried on a same virtual path (VP).

The particular Medhat citations appearing in the fourth enumerated paragraph of the final office action do not dissuade Applicants from viewing Medhat's virtual path group as being entirely different from Applicants' claimed AAL2 path group.

Significantly, U.S. Patent 6,314,103 to Medhat et al. does not contain a single reference to AAL2. (AAL2 is a particular one of several types of protocols for use on the ATM adaptation layer, described in the second full paragraph of page 2 of Applicants' specification). Naturally, therefore, U.S. Patent 6,314,103 to Medhat et al. cannot teach or even suggest an AAL2 path group.

REASON(S) FOR REVIEW

Accordingly, it is respectfully requested that the final rejection be withdrawn.

NIXON & VANDERHYE P.C.

By: /H. Warren Burnam, Jr./

H. Warren Burnam, Jr.
Reg. No. 29,366

HWB:lsh
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100